

Germany (Federal Republic)

ECONOMIC COOPERATION

Agreement signed at Bonn December 15, 1949, with annex and related letter

Entered into force provisionally December 29, 1949

Ratified by Germany February 3, 1950

Entered into force definitively February 6, 1950¹

Amended by agreements of February 27 and March 28, 1951,² and November 14 and December 30, 1952³

64 Stat. B81; Treaties and Other
International Acts Series 2024

ECONOMIC COOPERATION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY

PREAMBLE

The Government of the United States of America

and

The Government of the Federal Republic of Germany:

Recognizing that the restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance,

Recognizing that a strong and prosperous European economy is essential for the attainment of the purposes of the United Nations,

¹ In accordance with terms of para. 1, art. XV.

² 2 UST 1295; TIAS 2278.

³ 3 UST 5323; TIAS 2736.

Considering that the achievement of such conditions calls for a European recovery plan of self-help and mutual cooperation, open to all nations which cooperate in such a plan, based upon a strong production effort, the expansion of foreign trade, the creation or maintenance of internal financial stability and the development of economic cooperation, including all possible steps to establish and maintain valid rates of exchange and to reduce trade barriers,

Considering that in furtherance of these principles the Government of the Federal Republic of Germany has become a member of the Organization for European Economic Cooperation, created pursuant to the provisions of a Convention for European Economic Cooperation signed at Paris on April 16, 1948, under which the signatories of that Convention agreed to undertake as their immediate task the elaboration and execution of a joint recovery program,

Considering also that, in furtherance of these principles, the Government of the United States of America has enacted the Economic Cooperation Act of 1948 as amended ⁴ providing for the furnishing of assistance by the United States of America to nations participating in a joint program for European recovery, in order to enable such nations through their own individual and concerted efforts to become independent of extraordinary outside economic assistance,

Desiring to set forth the understandings which govern the furnishing of assistance by the Government of the United States of America, the receipt of such assistance by the Federal Republic of Germany, and the measures which the two Governments will take individually and together in furthering the recovery of the Federal Republic as an integral part of the joint program for European recovery;

Have agreed as follows:

ARTICLE I

(Assistance and Cooperation)

1. The Government of the United States of America undertakes to assist the Federal Republic of Germany by making available to the Government of the Federal Republic or to any person, agency or organization designated by the latter Government, aid under the terms, conditions and termination provisions of the Economic Cooperation Act of 1948, acts amendatory and supplementary thereto and appropriation acts thereunder. Such aid will be provided upon the approval by the Government of the United States of America of requests made by the Government of the Federal Republic and will consist of only such commodities, services and other assistance as are authorized to be made available by the above acts. The Government of the United States of America undertakes further to extend assistance to the Fed-

⁴ 62 Stat. 137; 63 Stat. 50.

eral Republic under applicable provisions of Appropriation Acts for the Government and Relief of Occupied Areas.

2. The Government of the Federal Republic of Germany, acting individually and through the Organization for European Economic Cooperation, consistently with the Convention for European Economic Cooperation signed at Paris on April 16, 1948, will exert sustained efforts in common with other participating countries speedily to achieve through a joint recovery program economic conditions in Europe essential to lasting peace and prosperity and to enable the countries of Europe participating in such a joint recovery program to become independent of extraordinary outside economic assistance within the period of this Agreement. The Government of the Federal Republic affirms its intention to take action to carry out the provisions of the general obligations of the Convention for European Economic Cooperation, to continue to participate actively on the work of the Organization for European Economic Cooperation, and to continue to adhere to the purposes and policies of the Economic Cooperation Act of 1948 as amended.

3. All assistance except conditional aid furnished by the Government of the United States of America to the Federal Republic of Germany pursuant to this Agreement shall constitute a claim against Germany. To the extent that expenditures are made from the ERP Special Account established under Article IV of this Agreement for the purposes set forth in paragraphs 3 and 4 of that Article and for purposes not of direct benefit to the German economy or the German people, such claim against Germany shall be reduced in an amount commensurate with such expenditures. To the extent that expenditures are made from the GARIOA [Government and Relief of Occupied Areas] Special Account established under Article V of this Agreement, credit will be given, at the time of final settlement of the claim of the United States of America against Germany, for any amounts expended for purposes which are then determined not to have been for the benefit of the German economy or the German people. The proceeds of exports from all future production and stocks of the Federal Republic will be available for payment for assistance made available pursuant to this Agreement. At the earliest practicable time consistent with the rebuilding of the economy of the Federal Republic on healthy, peaceful lines, such proceeds shall be applied for such payment on a basis not less favorable to the United States than that accorded the United States or the United Kingdom for costs incurred pursuant to the memorandum of agreement between the United States and the United Kingdom dated 2 December 1946, as revised and supplemented, relating to the economic integration of the United States and United Kingdom Zones of Germany.⁵

4. With respect to assistance furnished by the Government of the United States of America to the Federal Republic of Germany and procured from

⁵ TIAS 1575, 1689, 1883, 1959, and 1962, *post*, UNITED KINGDOM.

areas outside the United States of America, its territories and possessions, the Government of the Federal Republic will cooperate with the Government of the United States of America in ensuring that procurement will be effected at reasonable prices and on reasonable terms and so as to arrange that the dollars thereby made available to the country from which the assistance is procured are used in a manner consistent with any arrangements made by the Government of the United States of America with such country.

ARTICLE II

(General Undertakings)

1. In order to achieve the maximum recovery through the employment of assistance received from the Government of the United States of America, the Government of the Federal Republic of Germany will use its best endeavors:

a. To adopt or maintain the measures necessary to ensure efficient and practical use of all the resources available to it, including

(1) such measures as may be necessary to ensure that the commodities and services obtained with assistance furnished under this Agreement are used for purposes consistent with this Agreement and, as far as practicable, with the general purposes outlined in the schedules furnished by the Government of the Federal Republic in support of the requirements of assistance to be furnished by the Government of the United States of America; and

(2) the observation and review of the use of such resources through an effective follow-up system approved by the Organization for European Economic Cooperation.

b. To promote the development of industrial and agricultural production on a sound economic basis to achieve such production targets as may be established through the Organization for European Economic Cooperation and when desired by the Government of the United States of America to communicate to that Government detailed proposals for specific projects contemplated by the Government of the Federal Republic to be undertaken in substantial part with assistance made available pursuant to this Agreement, including whenever practicable projects for increased production of coal, transportation facilities and food,

c. To stabilize its currency, establish or maintain a valid rate of exchange, balance its governmental budgets as soon as practicable, create or maintain internal financial stability, and generally restore or maintain confidence in its monetary system; and

d. To cooperate with other participating countries in facilitating and stimulating an increasing interchange of goods and services among the par-

ticipating countries and with other countries and in reducing public and private barriers to trade among themselves and with other countries.

2. Taking into account Article VIII of the Convention for European Economic Cooperation looking toward the full and effective use of manpower available in the participating countries, the Government of the Federal Republic of Germany will accord sympathetic consideration to proposals, including proposals made in conjunction with the International Refugee Organization, directed to the largest practicable utilization of manpower available in any of the participating countries in furtherance of the accomplishment of the purposes of this Agreement.

3. The Government of the Federal Republic of Germany will take appropriate measures and will cooperate with other participating countries, to prevent, on the part of private or public commercial enterprises, business practices or business arrangements affecting international trade which restrain competition, limit access to markets or foster monopolistic control whenever such practices or arrangements have the effect of interfering with the achievement of the joint program of European recovery.

ARTICLE III

(Guaranties)

1. To the extent that foreign private investment is permitted in the Federal Republic of Germany, the Governments of the United States of America and the Federal Republic will, upon the request of either Government, consult respecting projects in the Federal Republic proposed by nationals of the United States of America and with regard to which the Government of the United States of America may appropriately make guaranties of currency transfer under Section 111(b)(3) of the Economic Cooperation Act of 1948 as amended.⁶

2. The Government of the Federal Republic of Germany agrees that if the Government of the United States of America makes payment in United States dollars to any person under such a guaranty, any Deutsche Mark, or credits in Deutsche Mark, assigned or transferred to the Government of the United States of America pursuant to that Section shall be recognized as property of the Government of the United States of America, and the Government of the United States will accordingly be subrogated to any right, title, claim or cause of action existing in connection with such Deutsche Mark or credits in Deutsche Mark.

ARTICLE IV

(ERP Special Account)

1. The Provisions of this Article shall apply with respect to all assistance which may be furnished by the Government of the United States of America

⁶ For an understanding relating to art. III, para. 1, see 2 UST 1295; TIAS 2278.

under the authority of the Economic Cooperation Act of 1948, as amended, other than as conditional aid or guaranties.

2. The Government of the Federal Republic of Germany will establish a special account (hereinafter called the ERP Special Account) in the Bank Deutscher Laender in the name of the Government of the Federal Republic and will make deposits in Deutsche Mark to this account as follows:

a. The balance at the close of business on the effective date of this Agreement in the Special Account established in the Bank Deutscher Laender in the name of the Military Governors pursuant to the Agreement between the Government of the United States of America and the United States and United Kingdom Military Governors in Germany, acting on behalf of the United States and United Kingdom Occupied Areas in Germany, made on July 14, 1948;⁷

b. The balance at the close of business on the effective date of this Agreement in the Special Account, now established in the Bank Deutscher Laender in the name of the French Commander-in-Chief pursuant to the Agreement between the Government of the United States of America and the French Commander-in-Chief in Germany, acting on behalf of the French Zone of Occupation of Germany, made on July 9, 1948;⁸

c. All amounts required to be deposited in the accounts referred to in paragraphs (a) and (b) of this Section, after the effective date of this Agreement, in fulfillment of obligations assumed by the Government of the Federal Republic under Article XII of this Agreement; and

d. Amounts in Deutsche Mark commensurate with the indicated dollar cost to the Government of the United States of America of commodities, services, and technical information (including any costs of processing, storing, transporting, repairing, or other services, incident thereto) made available after the effective date of this Agreement, to the Federal Republic of Germany in the form of assistance under the Economic Cooperation Act of 1948, as amended other than as conditional aid or guaranties. The Government of the United States of America shall from time to time notify the Government of the Federal Republic of the indicated dollar costs of any such commodities, services, and technical information, and the amounts in Deutsche Mark commensurate with such indicated dollar costs shall be determined in the following manner: Pending the establishment of an official effective commercial rate of exchange between the dollar and the Deutsche Mark the Government of the Federal Republic will, upon receipt of such notification, deposit in the ERP Special Account amounts of Deutsche Mark as agreed upon between the Government of the United States and the Government of the Federal Republic. These amounts will be computed at the current official conversion factor, unless otherwise agreed upon by the competent authorities.

⁷ TIAS 1785, *ante*, p. 262.

⁸ TIAS 1784, *ante*, p. 246.

Deposits in the ERP Special Account made, upon notification by the Government of the United States, after an official effective commercial rate of exchange has been established, will be amounts of Deutsche Mark computed at said rate.

3. The Government of the United States of America will from time to time notify the Government of the Federal Republic of Germany of its requirements for administrative expenditures in Deutsche Mark within the Federal Republic incident to operations under the Economic Cooperation Act of 1948 as amended, and the Government of the Federal Republic will thereupon make such sums available out of any balances in the ERP Special Account in the manner requested by the Government of the United States of America in the notification.

4. Five percent of each deposit made pursuant to this Article shall be allocated to the use of the Government of the United States of America for its expenditures in the Federal Republic of Germany, including expenditures for procuring and stimulating increased production of materials which are required by the United States as a result of deficiencies or potential deficiencies in its own resources, and sums made available pursuant to paragraph 3 of this Article shall first be charged to the amounts allocated under this paragraph.⁹

5. The Government of the Federal Republic of Germany will further make such sums of Deutsche Mark available out of any balances in the ERP Special Account as may be required to cover costs (including port, storage, handling, and similar charges) of transportation from any point of entry in the Federal Republic to the consignee's designated point of delivery in the Federal Republic of such relief supplies and packages as are referred to in Article VIII.

6. The Government of the Federal Republic of Germany may draw upon any remaining balance in the ERP Special Account for such purposes as may be agreed from time to time with the Government of the United States of America. In considering proposals put forward by the Government of the Federal Republic for drawings from the ERP Special Account, the Government of the United States of America will take into account the need for promoting or maintaining internal monetary and financial stabilization in the Federal Republic and for stimulating productive activity and international trade and the exploration for and development of new sources of wealth within the Federal Republic, including in particular:

a. Expenditures upon projects or programs, including those which are part of a comprehensive program for the development of the productive capacity of the Federal Republic and the other participating countries, and projects or programs the external costs of which are being covered by assist-

⁹ For an understanding relating to art. IV, para. 4, see 3 UST 5323; TIAS 2736.

ance rendered by the Government of the United States of America under the Economic Cooperation Act of 1948 as amended, or otherwise, or by loans from the International Bank for Reconstruction and Development;

b. Expenditures upon the exploration for and development of additional production of materials which may be required in the United States of America because of deficiencies or potential deficiencies in the resources of the United States of America; and

c. Effective retirement of the public debt, especially debt held by the Bank Deutscher Laender or other banking institutions.¹⁰

7. Any unencumbered balance, other than unexpended amounts allocated under paragraph 4 of this Article, remaining in the ERP Special Account on June 30, 1952, shall be disposed of within the Federal Republic of Germany for such purposes as may hereafter be agreed between the Governments of the United States of America and the Federal Republic, it being understood that the agreement of the United States of America shall be subject to approval by act or joint resolution of the Congress of the United States of America.

ARTICLE V

(GARIOA Special Account)

1. The provisions of this article shall apply with respect to all assistance which may be furnished by the Government of the United States of America under the authority of the applicable provisions of Appropriation Acts for the Government and Relief of Occupied Areas.

2. The Government of the Federal Republic of Germany will establish a special account (hereinafter called the GARIOA Special Account) in the Bank Deutscher Laender in the name of the Government of the Federal Republic and will make deposits in Deutsche Mark to this account as follows:

a. Any balance at the close of business on the effective date of this Agreement in the special account in the Bank Deutscher Laender entitled "Proceeds of GARIOA Imports Sub-Account" of "Military Governors for Germany (US/UK) Proceeds from Deferred Payments Import Account;"

b. All amounts due for deposit as of the effective date of this Agreement, or which may become due after such date, in fulfillment of the obligations assumed by the Government of the Federal Republic under Article 133 of the Basic Law for the Federal Republic, insofar as such obligations are related to arrangements for the provision of assistance to Germany authorized under applicable provisions of Appropriation Acts for the Government and Relief of Occupied Areas; and

c. Amounts in Deutsche Mark commensurate with the indicated dollar cost to the Government of the United States of commodities and services (including any costs of processing, storing, transporting, repairing, or other

¹⁰ For an understanding relating to art. IV, para. 6, see 2 UST 1295; TIAS 2278.

services incident thereto) made available after the effective date of this Agreement, to the Federal Republic of Germany under the authority of applicable provisions of Appropriation Acts for the Government and Relief of Occupied Areas. The Government of the United States of America shall from time to time notify the Government of the Federal Republic of the indicated dollar costs of any such commodities and services, and the amounts in Deutsche Mark commensurate with such indicated dollar costs shall be determined in the manner set forth in Article IV(2)(d).

3. The Government of the United States of America will from time to time notify the Government of the Federal Republic of Germany of expenditures in Deutsche Mark to be paid from the GARIOA Special Account, and the Government of the Federal Republic will thereupon make such sums available out of any balances in the GARIOA Special Account in the manner requested by the Government of the United States of America in the notification.

4. The Government of the Federal Republic of Germany may draw upon any remaining balance in the GARIOA Special Account for such purposes as may be agreed from time to time with the Government of the United States of America. In considering proposals put forward by the Government of the Federal Republic for drawings from the GARIOA Special Account, the Government of the United States of America will take into account the general consideration set forth in Article IV(6) of this Agreement.

ARTICLE VI

(Access to Materials)

1. The Government of the Federal Republic of Germany will facilitate the transfer to the United States of America, for stock piling or other purposes, of materials originating in the Federal Republic which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources, upon such reasonable terms of sale, exchange, barter or otherwise, and in such quantities, and for such period of time, as may be agreed to between the Governments of the United States of America and the Federal Republic, after due regard for the reasonable requirements of the Federal Republic, for domestic use and commercial export of such materials. The Government of the Federal Republic will take such specific measures as may be necessary to carry out the provisions of this paragraph, including the promotion of the increased production of such materials within the Federal Republic, and the removal of any hindrances to the transfer of such materials to the United States of America. The Government of the Federal Republic will, when so requested by the Government of the United States of America, enter into negotiations for detailed arrangements necessary to carry out the provisions of this paragraph.

2. Recognizing the principle of equity in respect to the drain upon the natural resources of the United States of America, and of the participating countries, the Government of the Federal Republic of Germany will, when so requested by the Government of the United States of America, negotiate where applicable

a. A future schedule of minimum availabilities to the United States of America for future purchase and delivery of a fair share of materials originating in the Federal Republic which are required by the United States of America as a result of deficiencies or potential deficiencies in its own resources at world market prices so as to protect the access of United States industry to an equitable share of such materials either in percentages of production or in absolute quantities from the Federal Republic;

b. Arrangements providing suitable protection for the right of access for any citizen of the United States of America or any corporation, partnership, or other association created under the laws of the United States of America or of any state or territory thereof and substantially beneficially owned by citizens of the United States of America, in the development of such materials on terms of treatment equivalent to those afforded to the nationals of the Federal Republic; and

c. An agreed schedule of increased production of such materials where practicable in the Federal Republic and for delivery of an agreed percentage of such increased production to be transferred to the United States of America on a long-term basis in consideration of assistance furnished by the United States of America under this Agreement.

3. The Government of the Federal Republic of Germany, when so requested by the Government of the United States of America, will cooperate, wherever appropriate, to further the objectives of paragraphs 1 and 2 of this Article in respect of materials originating outside the Federal Republic of Germany.

ARTICLE VII

(Aid to Berlin)

The Federal Republic agrees to make available to the US, UK and French Sectors of Berlin, to the maximum extent possible, such assistance as may, in consultation between the Governments of the Federal Republic and of the City of Berlin, be determined to be required for the economic maintenance and development of that area.

ARTICLE VIII

(Travel Arrangements and Relief Supplies)

1. The Government of the Federal Republic of Germany will cooperate with the Government of the United States of America in facilitating and

encouraging the promotion and development of travel by citizens of the United States of America to and within participating countries.

2. The Government of the Federal Republic of Germany will, when so desired by the Government of the United States of America, enter into negotiations for agreements (including the provision of duty-free treatment under appropriate safeguards) to facilitate the entry into the Federal Republic of supplies of relief goods donated to or purchased by United States voluntary non-profit relief agencies and of relief packages originating in the United States of America and consigned to individuals residing in the Federal Republic.

ARTICLE IX

(Consultation and Transmittal of Information)

1. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application of this Agreement or to operations or arrangements carried out pursuant to this Agreement.

2. The Government of the Federal Republic of Germany will communicate to the Government of the United States of America in a form and at intervals to be indicated by the latter after consultation with the Government of the Federal Republic:

a. Detailed information of projects, programs and measures proposed or adopted by the Government of the Federal Republic to carry out the provisions of this Agreement and the General Obligations of the Convention for European Economic Cooperation;

b. Full statements of operations under this Agreement, including a statement of the use of funds, commodities and services received thereunder, such statements to be made in each calendar quarter;

c. Information regarding its economy and any other relevant information, necessary to supplement that obtained by the Government of the United States of America from the Organization for European Economic Cooperation which the Government of the United States of America may need to determine the nature and scope of operations under the Economic Cooperation Act of 1948 as amended, and to evaluate the effectiveness of assistance furnished or contemplated under this Agreement and generally the progress of the joint recovery program.

3. The Government of the Federal Republic of Germany will assist the Government of the United States of America to obtain information relating to the materials originating in the Federal Republic referred to in Article VI which is necessary to the formulation and execution of the arrangements provided for in that Article.

ARTICLE X

(Publicity)

1. The Government of the United States of America and the Federal Republic of Germany recognize that it is in their mutual interest that full publicity be given to the objectives and progress of the joint program for European recovery and of the actions taken in furtherance of that program. It is recognized that wide dissemination of information on the progress of the program is desirable in order to develop the sense of common effort and mutual aid which are essential to the accomplishment of the objectives of the program.

2. The Government of the United States of America will encourage the dissemination of such information and will make it available to the media of public information.

3. The Government of the Federal Republic of Germany will encourage the dissemination of such information both directly and in cooperation with the Organization for European Economic Cooperation. It will make such information available to the media of public information and take all practicable steps to ensure that appropriate facilities are provided for such dissemination. It will further provide other participating countries and the Organization for European Economic Cooperation with full information on the progress of the program for economic recovery.

4. The Government of the Federal Republic of Germany will make public in the Federal Republic in each calendar quarter full statements of operations under this Agreement, including information as to the use of funds, commodities and services received.

ARTICLE XI

(Missions)

1. The Government of the Federal Republic of Germany agrees to receive a Special Mission for Economic Cooperation which will discharge the responsibilities of the Government of the United States of America in the Federal Republic under this Agreement.

2. The Government of the Federal Republic of Germany, upon appropriate notification from the Government of the United States, will accord appropriate courtesies to the Special Mission and its personnel, the United States Special Representative in Europe and his staff, and the members and staff of the Joint Committee on Foreign Economic Cooperation of the Congress of the United States of America, and will grant them the facilities and assistance necessary to the effective performance of their responsibilities to assure the accomplishment of the purposes of this Agreement.

3. The Government of the Federal Republic of Germany, directly and through its representatives on the Organization for European Economic

Cooperation will extend full cooperation to the Special Mission, to the United States Special Representative in Europe and his staff, and to the members and staff of the Joint Committee. Such cooperation shall include the provision of all information and facilities necessary to the observation and review of the carrying out of this Agreement, including the use of assistance furnished under it.

ARTICLE XII

(Outstanding Obligations and Commitments)

The Government of the Federal Republic of Germany agrees to assume any obligations of the United States or United Kingdom Military Governors, the French Commander-in-Chief, or the United States, United Kingdom, or French High Commissioners in Germany, undertaken, prior to the effective date of this Agreement, pursuant to or in carrying out the Agreements between the Government of the United States of America and said Military Governors acting on behalf of the United States and United Kingdom Occupied Areas in Germany, made on July 14, 1948, and between the Government of the United States of America and the French Commander-in-Chief in Germany, acting on behalf of the French Zone of Occupation of Germany, made on July 9, 1948, or pursuant to or in carrying out of arrangements for the provision of assistance to Germany authorized under applicable provisions of Appropriation Acts for the Government and Relief of Occupied Areas, to the full extent that the discharge of such obligation is within the jurisdiction of the Federal Republic of Germany. The Government of the Federal Republic further undertakes to assume full responsibility in connection with any and all claims against the Military Governors or the High Commissioners which may now exist or hereafter arise in connection with transactions entered into in carrying out the agreements or arrangements above referred to. The Government of the United States of America, for its part, agrees to honor any commitments made prior to the effective date of this Agreement, pursuant to the Agreements referred to above.

ARTICLE XIII

(Definitions)

As used in this Agreement:

1. The term "participating country" means:

a. Any country which signed the report of the Committee of European Economic Cooperation at Paris on September 22, 1947, and territories for which it has international responsibility and to which the Economic Cooperation Agreement concluded between that country and the Government of the United States of America has been applied; and

b. Any other country (including any of the Zones of Occupation of Germany, any areas under international administration or control and the Free Territory of Trieste or either of its zones) wholly or partly in Europe, together with dependent areas under its administration;

for so long as such country is a party to the Convention for European Economic Cooperation and adheres to a joint program for European recovery designed to accomplish the purposes of this Agreement.

2. The term "Conditional aid" means:

dollars furnished by the Government of the United States under the authority of the Economic Cooperation Act of 1948, as amended, to a participating country on condition that such country advance equivalent aid in the form of drawing rights in its own currency to other participating countries.

ARTICLE XIV

Nothing in this Agreement shall be deemed to:

a. Authorize or require any action inconsistent with the Occupation Statute, or with legislation or other measures of the Occupation Authorities, or with agreements relating to Germany concluded by or on behalf of the Governments of the United States, the United Kingdom and France among themselves or jointly with other Governments (including the agreement establishing the International Authority for the Ruhr¹¹);

b. Affect in any way the obligations of the Federal Republic under existing agreements or arrangements entered into on behalf of Germany; or

c. Abrogate or in any way limit the rights or powers of the Governments of the United States, the United Kingdom or France, jointly or severally, in respect to Germany, from whatever source derived and however exercised.

ARTICLE XV

(Entry into Force, Amendment, Duration)

1. This Agreement shall become effective upon notification by the Government of the Federal Republic of Germany to the Government of the United States that all necessary legal requirements in connection with the conclusion by the Federal Republic of this Agreement have been fulfilled. Subject to the provisions of paragraphs 2 and 3 of this Article, it shall remain in force until June 30, 1953, and, unless at least six months before June 30, 1953, either Government shall have given notice in writing to the other of intention to terminate the Agreement on that date, it shall remain in force thereafter until the expiration of six months from the date on which such notice shall have been given.

2. If during the life of this Agreement, either Government should consider there has been a fundamental change in the basic assumptions under-

¹¹ 3 UST 5203; TIAS 2718.

lying this Agreement, it shall so notify the other Government in writing and the two Governments will thereupon consult with a view to agreeing upon the amendment, modification or termination of this Agreement. If, after three months from such notification the two Governments have not agreed upon the action to be taken in the circumstances, either Government may give notice in writing to the other of intention to terminate this Agreement. Then, subject to the provisions of paragraph 3 of this Article, this Agreement shall terminate either:

- a. Six months after the date of such notice of intention to terminate, or
- b. After such shorter period as may be agreed to be sufficient to ensure that the obligations of the Government of the Federal Republic of Germany are performed in respect of any assistance which may continue to be furnished by the Government of the United States of America after the date of such notice; provided, however, that Article VI and paragraph 3 of Article IX shall remain in effect until two years after the date of such notice of intention to terminate, but not later than June 30, 1953.

3. Subsidiary agreements and arrangements negotiated pursuant to this Agreement may remain in force beyond the date of termination of this Agreement and the period of effectiveness of such subsidiary agreements and arrangements shall be governed by their own terms. Articles IV and V shall remain in effect until all the sums in the currency of the Federal Republic of Germany required to be deposited in accordance with its own terms have been disposed of as provided in these Articles. Paragraph 2 of Article III shall remain in effect for so long as the guaranty payments referred to in that Article may be made by the Government of the United States of America.

4. This Agreement may be amended at any time by agreement between the two Governments, subject to required legal procedures in each Country.

5. The Annex to this Agreement forms an integral part thereof.

6. This Agreement shall be registered with the Secretary-General of the United Nations.

In witness whereof the respective representatives, duly authorized for the purpose, have signed the present Agreement.

Done at Bonn, in duplicate, both texts authentic, this fifteenth day of December 1949.

For the Government of the United States of America
JOHN J. McCLOY

For the Government of the Federal Republic
of Germany [translation]
KONRAD ADENAUER

ANNEX

(Interpretative Notes)

1. It is understood that the requirements of paragraph 1(a) of Article II, relating to the adoption of measures for the efficient use of resources, would include, with respect to commodities furnished under the Agreement effective measures for safeguarding such commodities and for preventing their diversion to illegal or irregular markets or channels of trade.

2. It is understood that the obligation under paragraph 1(c) of Article II to balance the budgets as soon as practicable would not preclude deficits over a short period but would mean a budgetary policy involving the balancing of the budgets in the long run.

3. It is understood that the business practices and business arrangements referred to in paragraph 3 of Article II mean:

a. Fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;

b. Excluding enterprises from or allocating or dividing, any territorial market or fields of business activity, or allocating customers, or fixing sales quotas or purchase quotas;

c. Discriminating against particular enterprises;

d. Limiting production or fixing production quotas;

e. Preventing by agreement the development or application of technology or invention whether patented or unpatented;

f. Extending the use of rights under patents, trademarks or copyrights granted by either country to matters which, according to its laws and regulations, are not within the scope of such grants or to products or conditions of production, use or sale which are likewise not subjects of such grants; and

g. Such other practices as the two Governments may agree to include.

It is further understood that any undertakings of the Federal Republic with respect to the above practices will be subject to the provisions of Article XIV of this Agreement.

4. It is understood that the Government of the Federal Republic of Germany is obligated to take action in particular instances in accordance with paragraph 3 of Article II only after appropriate investigation or examination.

5. It is understood that the date of notification referred to in Article IV 2 (d) shall mean, for purposes of determining the conversion rate to be used in computing the amount in Deutsche Mark commensurate with the indicated dollar cost shown on any notification to the Government of the Federal Republic, the date of the last day of the disbursement period covered by such notification.

6. It is understood that the obligation of the Federal Republic to deposit counterpart under Article IV includes the obligation to deposit counterpart against any notification made subsequent to the effective date of this Agreement, of the dollar cost of commodities, services and technical information authorized for procurement prior to this Agreement.

7. It is understood that the phrase in Article VI, "After due regard for the reasonable requirements of the Federal Republic for domestic use" would include the maintenance of reasonable stocks of the materials concerned and that the phrase "commercial export" might include barter transactions. It is also understood that arrangements negotiated under Article VI might appropriately include provisions for consultation, in accordance with the principles of Article 32 of the Havana Charter of an International Trade Organization,¹² in the event that stock piles are liquidated.

8. It is understood that the Government of the Federal Republic of Germany will not be requested, under paragraph 2(a) of Article IX, to furnish detailed information about minor projects or confidential commercial or technical information the disclosure of which would injure legitimate commercial interests.

9. Nothing in Article XIV shall be deemed to affect in any way the fact that the undertaking of the Government of the United States under Article I of this Agreement is limited to furnishing assistance under the terms, conditions and termination provisions of the Economic Cooperation Act of 1948, Acts amendatory and supplementary thereto and Appropriations Acts thereunder, and to extending assistance under applicable provisions of Appropriation Acts for the Government and Relief of Occupied Areas.

10. In the determination of the obligations of the Federal Republic under Article VII of this Agreement, account will be taken by the Government of the United States of the economic, financial and budgetary situation in the Federal Republic and in Berlin.

¹² Unperfected. Art. 32(3) of the Havana Charter reads as follows:

"Such Member shall, at the request of any Member which considers itself substantially interested, consult as to the best means of avoiding substantial injury to the economic interests of producers and consumers of the primary commodity in question. In cases where the interests of several Members might be substantially affected, the Organization may participate in the consultations, and the Member holding the stocks shall give due consideration to its recommendations."

RELATED LETTER

*The Chancellor of the Federal Republic of Germany to the United States
High Commissioner for Germany*

[TRANSLATION]

THE FEDERAL REPUBLIC OF GERMANY

THE FEDERAL CHANCELLOR

5106/0619/49

BONN, *December 28, 1949*

His Excellency

The High Commissioner of the United States
and ECA Representative for Germany

Mr. JOHN J. McCLOY

Bonn-Petersberg

EXCELLENCY:

It is my intention to submit to the Federal Council and the Federal Assembly for ratification the Agreement of December 15, 1949 between the Federal Republic of Germany and the United States of America. I intend accordingly to postpone until after the ratification the dispatch of notification provided for in paragraph 1 of Article XV of this Agreement. It is agreed, however, that until the necessary parliamentary procedure has been completed and until this notification has been delivered the Agreement and all its provisions shall go into force provisionally as of December 29, 1949. It is also agreed that until it has received such notification the Government of the United States shall continue to provide the aid arranged for in the Agreement in accordance with the provisions and conditions established therein, and that the Federal Republic of Germany shall duly fulfill all her obligations under the Agreement.

It is also agreed that if the Government of the United States has not received the above-mentioned notification on or before January 31, 1950, the Government of the United States may rescind this temporary Agreement and the provisional entry into force of the Agreement five days after notification of such intent.

I should be grateful if you would agree to the above statements by indicating your approval on the enclosed copy of this communication and returning it to me.¹³

Accept, Excellency, the assurances of my most distinguished consideration.

ADENAUER

¹³ Confirmation copy signed by John J. McCloy and returned Dec. 9, 1949.